

# United States District Court

Eastern District of Michigan

United States of America

## ORDER OF DETENTION PENDING PROBATION VIOLATION HEARING

v.

Durell Matthews /

Defendant

Case Number: 06-20234

In accordance with the Bail Reform Act, 18 U.S.C. §3142(f), a detention hearing has been held. I conclude that the following facts require the detention of the defendant pending trial in this case.

### Part I – Findings of Fact

(1) I find that:

- there is probable cause to believe that the defendant has committed an offense
- for which a maximum term of imprisonment of ten years or more is prescribed in 21 U.S.C. § 841 or 846;
- under 18 U.S.C. § 924(c).

(2) I further find that the defendant has not rebutted the presumption established by finding that no condition or combination of conditions will reasonably assure the appearance of the defendant as required and the safety of the community.

### Alternative Findings

I find that the government has established by a preponderance of the evidence that there is a serious risk that the defendant will not appear.

I find that the government has established by clear and convincing evidence that there is a serious risk that the defendant will endanger the safety of another person or the community.

### Part II – Written Statement of Reasons for Detention

I find that the credible testimony and information submitted at the hearing established the following factors under 18 U.S.C. § 3142(g):

- (a) nature of the offense - Drug distribution conspiracy involving heroin and more than 50 grams of cocaine base.
- (b) weight of the evidence - Indictment establishes probable cause although case against this defendant primarily based upon CI/co-defendant testimony.
- (c) history and characteristics of the defendant -
  - 1) physical and mental condition - No serious health problems.
  - 2) employment, financial, family ties - No job or significant assets - extremely poor employment history for a man of his age.
  - 3) criminal history and record of appearance - Lengthy criminal record - 4 felonies and 2 misdemeanor convictions, including drug, firearm and breaking and entering crimes.
- (d) probation, parole or bond at time of the alleged offense -
- (e) danger to another person or community - By preponderance of evidence, but not by the clear and convincing standard.

Defendant faces a minimum 10 year sentence upon conviction. He has little to keep him in this community. His history of chronic unemployment and criminal activity are a grave concern, although the evidence of assaultive behavior in the context of the charged offense is entirely from co-defendants and cooperating witnesses. Defendant has failed to rebut the statutory presumption that he is a flight risk and a danger. Independent of the presumption, I view him as a serious flight risk. Pretrial Services recommends detention. I agree.

### Part III – Directions Regarding Detention

The defendant is committed to the custody of the Attorney General or his designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. The defendant shall be afforded a reasonable opportunity for private consultation with defense counsel. On order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility shall deliver the defendant to the United States Marshal for the purpose of an appearance in connection with a court proceeding.

s/Donald A. Scheer

*Signature of Judge*

Donald A. Scheer, United States Magistrate Judge

*Name and Title of Judge*

Date: November 28, 2007